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SENATE

{ REPORT
No. 1902

MR. AND MRS. CHARLES FUXMAN AND THEIR TWO DAUGHTERS

JUNE 27, 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 1448]

The Committee on the Judiciary, to which was referred the bill (H. R. 1448) for the relief of Mr. and Mrs. Charles Fuxman and their two daughters, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Mr. and Mrs. Charles Fuxman and their two daughters. The bill provides for appropriate quota deductions and for the payment of the required visa fees and head taxes.

STATEMENT OF FACTS

The beneficiaries of the bill are a father, mother, and two daughters who last entered the United States on May 22, 1945, as evacuees from the Philippine Islands. The parents were born in Siberia and the two daughters were born in China and Australia, respectively. Another daughter who entered with them adjusted her status to that of a permanent resident of the United States by virtue of her marriage to a native-born citizen and an honorably discharged veteran of World War II. One son was killed while serving in our Army. The beneficiaries of the bill were unable to qualify for adjustment of their status under the provisions of section 4 of the Displaced Persons Act.

A letter dated December 29, 1950, to the chairman of the Committee on the Judiciary of the House of Representatives from the Deputy

Attorney General with reference to H. R. 7774, which was a bill introduced in the Eighty-first Congress for the relief of the same aliens reads as follows:

DECEMBER 29, 1950.

HON. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice relative to the bill (H. R. 7774) for the relief of Mr. and Mrs. Charles Fuxman and their three daughters.

The bill would provide that Mr. and Mrs. Charles Fuxman and their three daughters, Ethel, Sally, and Sybil shall be considered to have been lawfully admitted to the United States for permanent residence and it would also direct the Attorney General to record the entry of such aliens into the United States as a lawful entry for permanent residence.

The files of the Immigration and Naturalization Service of this Department disclose that the aliens comprise a family group consisting of Charles Fuxman, alias Fox, his wife, Reva, and their three daughters, Ethel Nessie, Sarah (or Sally) and Sybil Olive. Mr. and Mrs. Fuxman were born in Verkneudinsk, Siberia, Russia, on January 7, 1899, and October 19, 1902, respectively, Ethel Nessie and Sarah were born in Shanghai, China, on April 7, 1924, and August 14, 1926, respectively, and Sybil Olive was born in Sydney, Australia, on December 8, 1929. They are citizens of Great Britain. The aliens entered the United States at San Pedro, Calif., on May 22, 1945, as evacuees from the Philippines and were admitted under section 3 (2) of the Immigration Act of 1924 as temporary visitors for a period of 1 year. Applications for an extension of their temporary admission were subsequently denied. On July 12, 1946, warrants for their arrest in deportation proceedings were issued on the ground that they had remained in the United States after failing to maintain the exempt status of visitors under which they were admitted. During their hearing there was lodged against them the additional charge that at the time of entry they were immigrants not in possession of valid immigration visas and not exempt from the presentation thereof. It was recommended that no order of deportation be entered at that time, but that they be required to depart from the United States, without expense to the Government, to any country of their choice. The denial of their request for preexamination and the approval of their request for voluntary departure were affirmed by the Board of Immigration Appeals. The aliens failed to avail themselves of the voluntary departure privilege, and have remained unlawfully in this country.

Apparently, with the exception of residence in Sydney, Australia, from 1928 until 1933, Mr. Fuxman, who stated that he used the name "Fox" for business purposes, has resided in the Orient. He stated that his parents, now deceased, moved from Poland to Nagasaki, Japan, when he was 6 months old. He went to school in Shanghai, China, and remained there after his marriage to Reva Gertsman, who had also resided in China since childhood, until he and his family moved to Australia where they remained until they returned to China in 1933. After having been employed by an accounting firm in Shanghai and Hongkong for about 5 years, he moved with his family to Manila, Philippine Islands. Two daughters Sarah and Sybil Olive are employed by the Pacific Telephone & Telegraph Co. in Santa Monica, Calif. earning \$160 and \$180 per month, respectively, and are unmarried. Mr. Fuxman is employed as an accountant by the Fleischer Paper Co. in Santa Monica, Calif., at a salary of \$62.50 per week, and in addition earns \$25 a week from another firm for part-time work. He claims to have an equity of \$6,500 in their home in Santa Monica. His wife is unemployed but stated that she has a bank deposit of \$5,000 which represents the accrued salary of their deceased son during his service in the United States Army.

Since Ethel Nessie Seigel, the oldest daughter, had her immigration status adjusted on November 16, 1948, to that of permanent resident under Public Law 271, Seventy-ninth Congress, by reason of her marriage to Mr. Leonard Seigel, a native-born citizen of the United States and an honorably discharged veteran of World War II, there is no need for enactment of the bill insofar as it relates to her. The other members of the family applied for adjustment of their status under the Displaced Persons Act of 1948. After a review of statements made by them during the hearing on their applications and the other facts revealed in the record, it was found that they failed to qualify under section 4 of such act, and their applications for such relief were denied on February 27, 1950.

The quota for Russia, to which Mr. and Mrs. Fuxman are chargeable, the quota for China, to which the daughter Sarah is chargeable, and the quota for

Australia, to which the daughter Sybil Olive is chargeable, are all oversubscribed and immigration visas are not readily obtainable. Their cases are similar to those of many other aliens who desire to enter this country for permanent residence but who are unable to do so because of the oversubscribed condition of the quotas to which they are chargeable. The record fails to present any facts which would justify granting these aliens preferential treatment exempting them from the quota requirements of the immigration laws.

Accordingly, the Department of Justice is unable to recommend enactment of the bill.

Yours sincerely,

PEYTON FORD,
Deputy Attorney General.

Congressman Donald L. Jackson, the author of the bill, appeared before a subcommittee of the Committee on the Judiciary of the House of Representatives and submitted the following letter with reference to the case:

ARMY SERVICE FORCES,
OFFICE OF THE COMMANDING GENERAL, NINTH SERVICE COMMAND,
Fort Douglas, Utah, April 11, 1946.

Mr. CHARLES FUXMAN,
Santa Monica, Calif.

DEAR MR. FUXMAN: The War Department has informed me that your son, Sgt. Gordon C. Fuxman, Infantry, has given his life in the performance of his duty.

It is therefore with deep sympathy that I address you on behalf of this command and extend every possible comfort and assistance.

We have a grateful and lasting interest in the men who have given their lives while in the service of their country and in the dependents of these men. The Army has made provision for you to have the benefit of our best counsel and assistance in the adjustment of your problems.

You will find the personal affairs officer at southern district, 590 North Vermont Avenue, Los Angeles, Calif., not only willing but eager to help you. Should you need service or assistance, please feel free to communicate with that officer.

The nearest chapter of the American Red Cross also is available to provide counsel and assistance.

I hope that the passing days will bring you comfort and a consoling pride in your son's unselfish service. His name will be an honored one among all who were privileged to know him.

Most sincerely yours,

A. P. KITSON,
Colonel, GSC, Commanding.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H. R. 1448) should be enacted.

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It is the duty of the Patent Office to examine the claims of the applicant and to grant a patent if the claims are found to be novel and non-obvious. The Patent Office is not to be concerned with the merits of the invention or with the question of whether or not the invention is a valuable one. It is the duty of the Patent Office to grant a patent if the claims are found to be novel and non-obvious, and to refuse a patent if the claims are found to be not novel or not non-obvious.

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